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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

*IN RE: SUBPOENAS TO META  
PLATFORMS, INC. AND PINTEREST,  
INC.*

Served in case: *Jones, et al. v. Abel, et al.*, S.D.N.Y. 1:25-cv-00779-UA

| Misc. Case Number: 3:25-mc-80165-TSH

*Hon. Thomas S. Hixson*

**PETITIONERS STEPHANIE JONES  
AND JONESWORKS LLC'S REPLY IN  
SUPPORT OF THEIR MOTION TO  
COMPEL RESPONDENTS META  
PLATFORMS, INC. AND PINTEREST,  
INC. TO COMPLY WITH THIRD-  
PARTY SUBPOENA**

Date: TBD  
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1     **I. INTRODUCTION**

2         Respondents' opposition rests on two false premises: that social media account user  
 3 data is protected by the First Amendment and that Petitioners must clear an "actual malice"  
 4 evidentiary hurdle now, without any discovery, before obtaining the very discovery  
 5 necessary to identify their anonymous defamers. Respondents are wrong on both counts.

6         The Ninth Circuit has repeatedly held that discovery of user data does not implicate  
 7 First Amendment concerns. Even if this were not the case, Petitioners have established a  
 8 *prima facie* case for defamation and their need for the requested discovery far outweighs  
 9 any First Amendment concerns. Respondents' argument that Petitioners must go above  
 10 and beyond and establish the mental state of the anonymous speakers who defamed them  
 11 in order to learn their identity is neither legally sound nor feasible at the subpoena stage.

12         First, Stephanie Jones is a private figure. Jones is not transformed into a limited-  
 13 purpose public figure merely because she works in "public relations" or is associated with  
 14 a high-profile dispute between celebrities.<sup>1</sup> Further, Respondents' timeline is flat out  
 15 wrong. The social media accounts at issue first appeared in May 2024, months before any  
 16 dispute between Justin Baldoni and Blake Lively became public and Jones learned of the  
 17 machinations of her former employee. Even if the Court were to accept Respondents'  
 18 unsupported arguments, they cannot demonstrate that Jones could have "voluntarily  
 19 inserted" herself into a "public" dispute that had not yet become public.

20         Second, even if actual malice is ultimately required at trial, courts recognize it is  
 21 improper to demand proof of a speaker's state of mind before the speaker is identified, as  
 22 such would be an impossible standard that would gut the subpoena power in defamation  
 23 cases.

24         Finally, even if the Court considers actual malice now, the coordinated smear  
 25 campaign against Jones—spanning multiple websites and social media accounts—

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27         <sup>1</sup> Respondents only "support" for their arguments are citations to unverified pleadings  
 28 and references to websites without authentication. Pursuant to F.R.E. 901, Petitioners  
 object to all such references to pleadings and websites in their oppositions.

1 provides powerful circumstantial evidence of actual malice under New York defamation  
 2 law. Petitioners have amply demonstrated a *prima facie* case justifying enforcement of the  
 3 subpoenas.

## 4 II. ARGUMENT

### 5 A. User Information Does Not Implicate First Amendment Concerns

6 The First Amendment prevents prior restraints by the government on speech. It does  
 7 provide immunity from the consequences of one's actions, including liability for  
 8 defamation. While Respondents point to minor differences in the factual underpinnings of  
 9 Petitioners' cases, they do change the fact that courts have clearly held that "exposure of  
 10 some identifying data does not violate the First Amendment." London v. Does 1-4, 279 F.  
 11 App'x 513, 515 (9th Cir. 2008) (citing People of State of Cal. v. F.C.C., 75 F.3d 1350,  
 12 1362 (9th Cir.1996)); see also People of State of Cal. v. F.C.C., 75 F.3d 1350, 1362 (9th  
 13 Cir. 1996) (quoting Wooley v. Maynard, 430 U.S. 705, 714–715 (1977) (White, J.,  
 14 dissenting); emphasis added) ("The First Amendment protects persons from being  
 15 compelled to express 'adherence to an ideological point of view he finds unacceptable.'  
 16 The government cannot require an individual to participate in the dissemination on an  
 17 'ideological message.' *Exposure of a telephone number does not violate the First*  
 18 *Amendment right not to speak.*").

### 19 B. Stephanie Jones Is Not a Limited-Purpose Public Figure Based on 20 Involvement in a Celebrity Dispute

21 Even if the Court were to decide that a First Amendment analysis is required,  
 22 Petitioners established a *prima facie* case for defamation. Indeed, Respondents do not  
 23 dispute that Petitioners established a *prima facie* case for defamation as applied to private  
 24 figures, instead they argue that Jones should be subjected to a higher standard applied to  
 25 public figures. Respondents provide no evidence for this proposition beyond referring to  
 26 Jones' career in public relations.

27 As an initial matter, Respondents' oppositions completely ignore the timeline of the  
 28 events involved. Both Respondents argue that "Petitioners satisfy all four elements of [the

1 limited purpose public figures] test with respect to the Baldoni-Lively dispute..." (Meta  
 2 Opp. at p.7; Pinterest Opp. at p.7; emphasis added.) However, the appearance of the  
 3 websites and social media accounts at issue predates the Baldoni-Lively dispute by  
 4 months. As stated in Jones' declaration, she learned of the existence of the social media  
 5 accounts in May 2024. (Jones Decl. ¶¶ 3-4.) While the date of creation of the Facebook  
 6 and Pinterest accounts is unknown because of Respondents' refusal to comply with  
 7 legitimate discovery requests, the earliest posts on the Facebook account show that the  
 8 account "updated their cover photo," "updated their profile photo," and "updated their  
 9 bio" on May 8, 2024. (Declaration of Jonas P. Mann in Support of Petitioners' Reply in  
 10 Support of Motion to Compel, Exhibits 1-3.) Thus, at the *latest*, these accounts were  
 11 created in May 2024.

12 As alleged in the operative complaint, Abel and Nathan's scheming began in July  
 13 2024 (Compl. ¶7-9) and Jones did not learn about it until August 2024 (Compl. ¶13). Blake  
 14 Lively did not file her complaint until December 31, 2024. (Mann Decl. Ex. 4.) Thus, it is  
 15 impossible for Petitioners to have "invited public attention," "voluntarily injected  
 16 themselves," or "assumed a position of prominence" in a public controversy that had yet  
 17 to exist at the time of the creation of the accounts at issue. That Jones has a successful  
 18 public relations career does not render all libel and slander against her outside the reach  
 19 of defamation law in perpetuity.

20 Even if the social media accounts did not pre-date the Lively-Baldoni dispute by  
 21 several months, Respondents' attempt to classify Jones as a limited-purpose public figure  
 22 would still fail under well-established law. "A private individual is not automatically  
 23 transformed into a public figure just by becoming involved in or associated with a matter  
 24 that attracts public attention." Gottwald v. Sebert, 148 N.Y.S. 3d 37, 44, 193 A.D.3d 573  
 25 (2021), aff'd as modified, 40 N.Y.3d 240, 220 N.E.3d 621 (2023) (quoting Wolston v.  
 26 Reader's Digest Assn. Inc., 443 U.S. 157, 167 (1979)). Indeed, "[a] 'trivial or tangential'  
 27 role in the controversy is not sufficient to be a limited-purpose public figure." Prince v.  
 28 Intercept, 634 F. Supp. 3d 114, 137-38 (S.D.N.Y. 2022).

Instead, the plaintiff must have assumed a position of “especial prominence in the affairs of society” or “thrust herself to the forefront of any particular public controversy in order to influence the resolution of the issues involved in it.” See Time, Inc. v. Firestone, 424 U.S. 448, 453 (1976). Jones did no such thing. She did not seek public attention or media coverage *of herself or her company* in the Baldoni-Lively dispute; at most, her involvement was *incidental and behind-the-scenes*. She never “‘thrust [herself] to the forefront’ of the controversy” nor “invite[d] attention and comment” upon herself nor “assumed special prominence in [its] resolution.” La Liberte v. Reid, 966 F.3d 79, 91 (2d Cir. 2020) (quoting Gertz v. Robert Welch, Inc., 418 U.S. 323, 345, 351 (1974)); see also Khawar v. Globe Int'l, Inc., 19 Cal. 4th 254, 263 (1998). To the contrary, any public notoriety arose from others’ actions, including those of a rogue employee, and press interest in Lively and Baldoni but not from Petitioners’ own conduct.

The Supreme Court’s decision in Time, Inc. v. Firestone is directly on point. In Firestone, a wealthy socialite’s divorce garnered media attention, but the Court held she was *not* a public figure because she “did not thrust herself to the forefront of any particular public controversy in order to influence the resolution of the issues involved.” Firestone, supra. The mere fact that the proceedings were newsworthy did not transform her into a public figure: “Dissolution of a marriage through judicial proceedings is not the sort of ‘public controversy’ referred to in Gertz, even though the marital difficulties of extremely wealthy individuals may be of interest to some portion of the reading public.” Id. Likewise here, the Baldoni-Lively dispute and litigation may have attracted gossip-column attention, but Jones “assumed no ‘special prominence’ in the resolution of [any] public questions.” Gertz, 418 U.S. at 351. She was “pulled into [the] spotlight” by events outside her control, stepping forward, at most, “solely to defend her reputation.” La Liberte v. Reid, 966 F.3d 92. Such a “trivial or tangential” participation in others’ feud does not divest a person of their private-figure status. Prince, 634 F. Supp. 3d at 137–38.

The four-factor test set forth in Lerman v. Flynt Distrib. Co., Inc. underscores why Jones remains a private figure. Those factors ask whether the individual (1) invited public

1 attention to influence others, (2) voluntarily injected herself into the controversy, (3)  
 2 assumed a position of prominence in the public issue, and (4) maintained regular media  
 3 access. Lerman, 745 F.2d 123, 136–37 (2d Cir. 1984). Jones fails this test. Jones never  
 4 sought to influence public opinion about the Baldoni-Lively matter because any media  
 5 outreach she undertook was done on her client’s behalf, not to publicize her *own* views.  
 6 She was not a public crusader or outspoken *persona* in the controversy, but a paid  
 7 professional working behind the scenes.

8 Respondents’ arguments and unsupported references to emails “purportedly sent”  
 9 by Jones do nothing to alter her status as a private person for the purposes of this  
 10 defamation claim. Obviously, Jones works in public relations and Baldoni was a  
 11 Jonesworks client. But that work, by its very nature, is about the public stature of **her**  
 12 **clients, not herself**. Further, the unverified, self-serving allegations in Abel’s cross-  
 13 complaint are not evidence of anything.

14 In short, treating Jones as a limited-purpose public figure would contravene the core  
 15 principles of applicable defamation law. The undisputed facts show Jones did not invite  
 16 any such notoriety for herself. At most, she became *involuntarily* entangled in others’  
 17 public drama, akin to the plaintiffs in Firestone or La Liberte, because of the unauthorized  
 18 actions of a rogue employee. The Court should reject Respondents’ attempt to expand  
 19 public-figure doctrine to someone who was “pulled into a spotlight” by others’ actions.  
 20 La Liberte, 966 at 92. Jones remains a private figure, meaning her defamation claim need  
 21 only satisfy a negligence standard, not actual malice. Id.; Brown v. Kelly Broad. Co., 48  
 22 Cal. 3d 711, 742 (1989) (“[A] private person need prove only negligence (rather than  
 23 malice) to recover for defamation.”).

24 **C. Requiring Proof of “Actual Malice” at the Subpoena Stage is Legally  
 25 Improper and Logically Impossible**

26 Even assuming *arguendo* that an actual malice standard will apply *at trial*,  
 27 Petitioners cannot reasonably be expected to prove a defendant’s state of mind before  
 28 obtaining the defendant’s identity. Courts have widely recognized this “Catch-22” and

1 have declined to impose such an unfair burden at the subpoena stage. In In re Ottinger v.  
 2 Non-Party The Journal News, the Supreme Court of New York, Westchester County,  
 3 explicitly held that evidence of actual malice is not necessary for a public figure libel  
 4 plaintiff to unmask an anonymous poster's identity. No. 08-03892, 2008 N.Y. Misc.  
 5 LEXIS 4579, at \*7 (Sup. Ct. Westchester County June 27, 2008) ("The court...finds that  
 6 the petitioners, at this point in the proceeding, need not prove [actual malice] to obtain  
 7 pre-action disclosure."). Noting the lack of precedent on the issue, the Ottinger court  
 8 looked to cases from neighboring jurisdictions, such as Doe v. Cahill. Id. at \*4-5. In Cahill,  
 9 the Supreme Court of Delaware explicitly acknowledged that it was "mindful that public  
 10 figures in a defamation case must prove that the defendant made the statements with actual  
 11 malice" but that "[w]ithout discovery of the defendant's identity, satisfying this element  
 12 may be difficult, if not impossible." Doe v. Cahill, 884 A.2d 451, 464 (Del. 2005).  
 13 Accordingly, in reckoning with the actual malice standards under New York law, New  
 14 York courts have recognized that "[t]his analysis typically requires discovery." Khalil v.  
 15 Fox Corp., 630 F. Supp. 3d 568, 584 (S.D.N.Y. 2022) (citing Karedes v. Ackerley Grp., Inc., 423 F.3d 107, 114-15 (2d Cir. 2005); Church of Scientology Int'l v. Behar, 238 F.3d  
 16 168, 174 (2d Cir. 2001)).

18 Notably, California courts have reached the same conclusion, recognizing that  
 19 requiring a public figure defamation plaintiff to establish actual malice before identifying  
 20 the speaker imposes an impossible standard that effectively forecloses relief. Castro v.  
 21 Doe, No. 23-MC-80198-TSH, 2023 WL 9232964, at \*6 (N.D. Cal. Oct. 12, 2023)  
 22 ("Castro's defamation claim almost surely won't make it off the ground without  
 23 Wikimedia's help. Wikimedia knows Chetsford's identity; Castro doesn't. And if  
 24 Wikimedia doesn't identify Chetsford, Castro would be left without a means by which to  
 25 'vindicate his good name.'") (quoting Milkovich v. Lorain J. Co., 497 U.S. 1, 12 (1990)).  
 26 "Courts have obviated that difficulty, however, by insisting on a preliminary showing of  
 27 only those facts accessible to the plaintiff." Krinsky v. Doe 6, 159 Cal. App. 4th 1154,  
 28 1171 (2008) (citing Cahill, supra) (emphasis added). "Indeed, the need to know the

1 identity of the defendant in order to pursue a claim will usually be deemed ‘essential to a  
 2 fair resolution of [a] lawsuit.’” ZL Techs., Inc. v. Does 1-7, 13 Cal. App. 5th 603, 633,  
 3 (2017) (quoting Digital Music News LLC v. Superior Court, 226 Cal. App. 4th 216, 228,  
 4 (2014)). Along those lines, courts have found numerous contexts “where the veil of  
 5 anonymity must be drawn aside to afford a victim redress for the anonymous speaker’s”  
 6 harm. Digital Music News LLC v. Superior Ct., 226 Cal. App. 4th 216, 230 (2014) (citing  
 7 Krinsky v. Doe 6, supra, 159 Cal. App. 4th at 1166-1167, 1173 (defamation); Roth v.  
 8 United States, 354 U.S. 476 (1957) (obscenity); Beauharnais v. Illinois, 343 U.S. 250, 266  
 9 (1952) (libel); Harper & Row v. Nation Enterprises, 471 U.S. 539, 555-556 (1985)  
 10 (copyright infringement); Central Hudson Gas & Elec. Corp. v. Public Serv. Comm’n, 447  
 11 U.S. 557, 563-564 (1980) (misleading or commercial speech); Chaplinsky v. State of New  
 12 Hampshire, 315 U.S. 568, 573 (1942) (use of “fighting words”)). In SI03, Inc. v.  
 13 Bodybuilding.com, LLC, the Ninth Circuit reversed and remanded a district court’s denial  
 14 of a motion to compel holding that “[t]he degree of scrutiny we give to impositions on  
 15 speech varies depending on the circumstances and type of speech at issue” and that “[t]o  
 16 characterize the speech at issue here, we must know the true identities of the speakers.”  
 17 441 F. App’x 431, 431-32 (9th Cir. 2011) (internal quotations omitted). The principle is  
 18 simple: a plaintiff should not be forced to prove what cannot be known until after  
 19 discovery is granted.

20 In other words, when a plaintiff has otherwise set forth a *prima facie* case of  
 21 defamation, the law does not withhold the only mechanism (a subpoena) by which the  
 22 plaintiff could uncover proof of the speaker’s knowledge or reckless disregard for the  
 23 truth. See id. To do so would effectively immunize anonymous defamers, making it  
 24 impossible for even the most meritorious claims to proceed if the plaintiff happens to be  
 25 a public figure. The First Amendment does not demand such a perverse result.

26 Respondents’ authorities do not compel a different conclusion. Meta relies on out-  
 27 of-circuit cases like Blossoms & Blooms, Inc. v. Doe, 2022 WL 3030788 (E.D. Pa. July  
 28 29, 2022), which denied a subpoena *only because* the plaintiffs in that case “failed to state

1 a *prima facie* case, so they are unquestionably not entitled to subpoena information.” *Id.*  
 2 at \*7. But Pennsylvania’s approach is not binding here, and in any event Blossoms &  
 3 Blooms is distinguishable as it involved *only* a garden-variety negative post, not a  
 4 concerted fraudulent smear campaign. *Id.*

5 In fact, Castro v. Doe, cited by Respondents overwhelmingly *supports* Petitioners’  
 6 motion to compel. In Castro, the court held that “[t]o satisfy the actual malice standard, a  
 7 public figure must demonstrate a writer published the statements at issue “with knowledge  
 8 that [such statements] w[ere] false or with reckless disregard of whether [they] w[ere]  
 9 false or not.” Castro, 2023 WL 9232964 at \*5 (quoting N.Y. Times Co. v. Sullivan, 376  
 10 U.S. 254, 280 (1964)). The court then held that because the plaintiff “alleges Defendants  
 11 ‘published false and defamatory statements not once, but repeatedly over a substantial  
 12 period of time,’ that they ‘knowingly and intentionally relied on and used unreliable  
 13 sources to perpetuate the defamatory statements about [him],’ and ‘acted with actual  
 14 malice in publishing the knowingly false information[,] this was “enough to satisfy the  
 15 actual malice standard.” Castro, 2023 WL 9232964 at \*5 (citing Bentley v. Bunton, 94  
 16 S.W.3d 561, 591, 596 (Tex. 2002)).

17 Similarly, here, Respondents allege that the Doe Defendants published defamatory  
 18 statements not once, but multiple times across multiple websites and social media  
 19 accounts. Respondents allege that the Doe Defendants “made these statements with  
 20 knowledge that they were false [or] with reckless disregard for their truth or falsity.”  
 21 (Compl. ¶163.) As in Castro, this is sufficient to plead actual malice.

22 Further, in granting the motion to compel, the court in Castro recognized that “the  
 23 First Amendment does not protect tortious, defamatory, or libelous speech.” Castro, 2023  
 24 WL 9232964 at \*6 (citing USA Techs., Inc. v. Doe, 713 F. Supp. 2d 901, 906 (N.D. Cal.  
 25 2010); Zuru, Inc. v. Glassdoor, Inc., 614 F. Supp. 3d 697, 706 (N.D. Cal. 2022); In re  
 26 Anonymous Online Speakers, 661 F.3d 1168, 1173 (9th Cir. 2011).

27 Finally, the court in Castro recognized the impossibility of proving actual malice  
 28 without discovery, stating “Castro’s defamation claim almost surely won’t make it off the

1 ground without Wikimedia’s help. Wikimedia knows Chetsford’s identity; Castro doesn’t.  
 2 And if Wikimedia doesn’t identify Chetsford, Castro would be left without a means by  
 3 which to ‘vindicate his good name.’ The discovery that Castro seeks, in other words, is  
 4 critical to the success of his proposed defamation claim.” Castro, 2023 WL 9232964 at \*6  
 5 (quoting Milkovich, 497 U.S. at 12).

6 In sum, this Court should follow the sensible approach taken in Ottinger, Cahill,  
 7 Castro, and similar cases: do not let an unknown tortfeasor hide behind the very ignorance  
 8 created by their anonymity. Requiring Petitioners to *prove* actual malice now without even  
 9 knowing the identity of the persons who posted the lies would be legally improper. It  
 10 would effectively grant the anonymous defamer immunity and a premature victory,  
 11 undermining New York’s substantial interest in providing a remedy for reputational  
 12 attacks. Petitioners have come forward with significant evidence and established a *prima*  
 13 *facie* claim for defamation (see Mot., ECF No. 1), and that is all that should be required at  
 14 this stage. The *question* of actual malice can be addressed once the perpetrators are  
 15 identified and their communications and motives can be examined in discovery. Indeed,  
 16 the Second Circuit has held that a public-figure plaintiff need only plead enough facts to  
 17 “raise a reasonable expectation that discovery will reveal evidence of actual malice.”  
 18 Prince, 634 F. Supp. 3d at 139. Petitioners easily clear that modest threshold here.

19 **D. In the Alternative, the Coordinated Smear Campaign Supports a Strong  
 20 Inference of Actual Malice**

21 Should the Court determine that an actual malice showing is necessary even for  
 22 discovery, Petitioners submit that the facts of this case readily give rise to a compelling  
 23 inference of actual malice under New York law. Actual malice means the defendant made  
 24 a defamatory statement “with knowledge that the statements were false or [made] with  
 25 reckless disregard as to their veracity.” Biro v. Conde Nast, 807 F.3d 541, 544 (2d Cir.  
 26 2015); see also McDougal v. Fox News Network, LLC, 489 F. Supp. 3d 174, 185  
 27 (S.D.N.Y. 2020). Actual malice “may be proven by inferential and circumstantial evidence  
 28 ‘because it is a matter of the defendant’s subjective mental state, revolves around facts

1 usually within the defendant's knowledge and control, and rarely is admitted' by the  
 2 defendant." Palin v. New York Times Co., 113 F.4th 245, 263 (2d Cir. 2024) (quoting  
 3 Dalbec v. Gentleman's Companion, Inc., 828 F.2d 921, 927 (2d Cir. 1987)). The Supreme  
 4 Court has clarified that although "the concept of 'reckless disregard' cannot be fully  
 5 encompassed in one infallible definition, ... the defendant must have made the false  
 6 publication with a high degree of awareness of ... probable falsity, or must have entertained  
 7 serious doubts as to the truth of his publication." Harte-Hanks Commc'nns, Inc. v.  
 8 Connaughton, 491 U.S. 657, 667 (1989) (internal quotation marks, citations, and  
 9 alterations omitted). "Courts have noted various circumstances that may be probative of  
 10 actual malice, including[,] *inter alia*, where: "a story is fabricated or is based wholly on  
 11 an unverified, anonymous source," and "the defendant's allegations are so inherently  
 12 improbable that only a reckless person would have put them in circulation[.]" Biro v.  
 13 Conde Nast, 963 F. Supp. 2d 255, 277 (S.D.N.Y. 2013), aff'd, 807 F.3d 541 (2d Cir. 2015),  
 14 and aff'd, 622 F. App'x 67 (2d Cir. 2015) (quoting Behar, 238 F.3d at 174 (citing St.  
 15 Amant v. Thompson, 390 U.S. 727, 731, (1968))).

16 Further, all signs point to the anonymous posts being part of a deliberate,  
 17 premeditated smear campaign, not a good-faith mistake or mere negligence. "[W]hether  
 18 the defendant's allegations are so inherently improbable that only a reckless person would  
 19 have put them in circulation is relevant to a showing that the defendant harbored actual  
 20 malice." Goldfarb v. Channel One Russia, 663 F. Supp. 3d 280, 310 (S.D.N.Y. 2023)  
 21 (internal citations omitted).

22 As detailed in Petitioners' Motion, the record shows that multiple platforms were  
 23 marshaled in tandem to spread the same false narrative about Jones. This was not an  
 24 organic outburst of online commentary by random individuals; it was a synchronized  
 25 operation to assassinate Jones's character across the internet. The coordinated nature of  
 26 this attack strongly implies *knowledge* and *intent*. Whoever is behind the scheme took the  
 27 time to create multiple sites, craft consistent false content, and promote it widely; such  
 28 conduct is utterly inconsistent with any honest belief in the truth of the allegations. See St.

1 Amant, 390 U.S. at 732 (“[R]ecklessness may be found where there are obvious reasons  
 2 to doubt the veracity of the informant or the accuracy of his reports.”).

3 If the anonymous speaker(s) had any legitimate evidence for their claims, they  
 4 presumably would not need to hide behind fake personas and a web of websites, nor would  
 5 they need to resort to sensational and patently dubious accusations. The sheer extremity  
 6 and specificity of the false charges, combined with the cloak-and-dagger delivery, permits  
 7 the reasonable conclusion that the speaker posted them either *knowing* they were false or  
 8 with a high degree of awareness that the claims were baseless. In such circumstances, the  
 9 Supreme Court has explained, “it is likely that the [defendant’s] inaction was a product of  
 10 a deliberate decision not to acquire knowledge of facts that might confirm the probable  
 11 falsity” of the published statements. Harte-Hanks Commc’ns, Inc., 491 U.S. at 692.

12 Here, the anonymous campaign against Jones is, if anything, even more suggestive  
 13 of malice. The false posts about Jones appeared prior to an article attacking Jones that was  
 14 orchestrated in part by her professional rivals (former associates who had much to gain by  
 15 destroying her reputation). Those individuals would have firsthand knowledge that these  
 16 lurid accusations are false or grossly distorted. Thus, unlike a typical media defendant who  
 17 might claim negligence or sloppy sourcing, the likely culprits here had every motive to lie  
 18 and no credible basis for what they published. See Behar, 238 F.3d at 174 (approving a  
 19 district court’s finding that “bias would be relevant to show a purposeful avoidance of the  
 20 truth if it were coupled with evidence of an extreme departure from standard investigative  
 21 techniques”). Such calculated defamation for personal gain is the paradigm of actual  
 22 malice. See Babb v. Minder, 806 F.2d 749, 755 (7th Cir. 1986) (“[R]eckless conduct may  
 23 be evidenced in part by failure to investigate thoroughly and verify the facts ... particularly  
 24 where the material is peculiarly harmful or damaging to the plaintiff’s reputation or good  
 25 name.” (internal quotation marks and citation omitted)). At the very least, Petitioners have  
 26 more than met the pleading-stage requirement of alleging facts that “raise a reasonable  
 27 expectation that discovery will reveal evidence of actual malice.” Prince, 634 F. Supp. 3d  
 28 at 139. In fact, discovery is likely to yield direct evidence of malice such as

1 communications among the conspirators revealing they knew Jones hadn't done the things  
 2 they accused her of, or that they set out to "bury" her with no regard for the truth  
 3 (consistent with allegations already made in the underlying SDNY action).

4 Finally, personal animosity can bolster an inference of malice when accompanied  
 5 by evidence of falsity. See Celle v. Filipino Rep. Enters. Inc., 209 F.3d 163, 190 (2d Cir.  
 6 2000) (Jacobs, J., dissenting) ("Considering the evidence of ill will Pelayo felt towards  
 7 Celle, a reasonable juror could conclude that Pelayo knowingly and recklessly ignored the  
 8 probable falsity of the story and printed it."). Here, everything about the smear campaign  
 9 screams of personal vendetta: the attackers hijacked Jones's own name to spread the  
 10 defamation, and timed their campaign with an ex-employee's plans to steal clients. This  
 11 context further supports a finding that the defamers were not innocently mistaken and that  
 12 they acted with the "reckless disregard" of people determined to inflict damage, without  
 13 regard for the truth.

14 In sum, should the Court reach the issue of actual malice, Petitioners have satisfied  
 15 their burden by identifying enough circumstantial evidence for a factfinder to conclude  
 16 the anonymous statements were made with knowing or reckless falsity. This is all that is  
 17 required at this stage.

18 **III. CONCLUSION**

19 Petitioners have demonstrated a *prima facie* case of defamation and have overcome  
 20 Respondents' First Amendment objection. Jones is a private figure entitled to the ordinary  
 21 protections of defamation law, and even if a heightened standard did apply, it would be  
 22 unfair to enforce it pre-discovery, especially given the strong indicia of actual malice  
 23 apparent here. The Court should therefore grant the motion to compel and order Meta and

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Pinterest to comply with the subpoenas, so that the architects of this defamatory smear campaign can be identified and held to account.

Dated: July 16, 2025

Respectfully submitted,

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